

August 6, 2018

Mr. Devin Leary
Human & Rohde Inc.
512 Virginia Ave
Towson, MD 21286

RE: Ertugrul Property at 13 Trighton Court
Forest Conservation Variance
Tracking # 02-18-2768

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on July 23, 2018. If granted, the variance would authorize the removal of four specimen trees in order to construct a single family detached dwelling on an existing lot in Sagamore Forest, a subdivision approved in 1975. All of the specimen trees to be removed are native species in good condition and located in forest, any clearing of which will be mitigated in accordance with an EPS-approved forest conservation plan.

The Director of EPS may grant a special variance to the Forest Conservation law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The petitioner is seeking to construct one house on a residential lot created well prior to the effective date of this law. Avoiding all of the specimen trees onsite would render the lot unbuildable given the septic, well, zoning, and topographic constraints of the lot. Therefore, denying this variance would deprive the petitioner of all beneficial use of the property. Consequently, we find that this criterion has been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. The petitioner's plight in fully meeting the Forest Conservation Law is due to the number and location of the specimen trees coupled with other site constraints for the proposed dwelling rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The proposed dwelling is commensurate with the size and architecture of the neighboring houses. Therefore, we find that granting the variance will not alter the essential character of the neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. We have determined that no streams, wetlands or associated buffers will be impacted by the house construction. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. The petitioner has not taken any action or created any circumstance necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. The forest conservation plan included with the variance application indicates the use of retaining walls to minimize forest clearing and impacts to specimen trees, which demonstrates reasonable effort to retain as much forest and specimen trees as possible per Section 33-6-111(b) of the Forest Conservation Law for this lot that was created well prior to the effective date of this law. Moreover, the break-even point of forest is being retained in a Forest Conservation Easement onsite. Therefore, we find that this criterion has been met.

Based upon our review, this Department finds that the required variance criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. The Forest Conservation Easement and its Declaration of Protective Covenants shall be recorded in Baltimore County Land Records via the Exhibit A process prior to building or grading permit issuance.

Mr. Devin Leary
Ertugrul Property at 13 Trighton Court
Forest Conservation Submission
August 6, 2018
Page 3

2. The Forest Conservation Easement shall be posted with “Forest Conservation-Do Not Disturb” signs as shown on a Forest Conservation Plan to be revised per this variance and approved by EPS staff prior to approval of any permit. This posting shall also occur prior to issuance of any permit for this property.
3. The following note must be on all plans for this project:

A variance was granted to the Forest Conservation Law by Baltimore County EPS on August 6, 2018 to allow removal of four specimen trees. Conditions were placed on this variance to minimize impacts to forest resources including permanent posting of the Forest Conservation Easement.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If there are any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely,

David V. Lykens
Deputy Director

DVL/ges

- c. Scott Lindgren, Gerhold, Cross & Etzel
Marian Honecny, Dept. of Natural Resources

Mr. Devin Leary
Ertugrul Property at 13 Trighton Court
Forest Conservation Submission
August 6, 2018
Page 4

I/we agree to the above conditions to the subject property into compliance with Baltimore County's Forest Conservation Law.

Owner's Signature

Date

Printed Name